

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

JAMES MOBLEY

Petitioner,

-v-

**WARDEN, Chillicothe Correctional
Institution,**

Respondent.

Case No. 3:09-cv-061

**Judge Thomas M. Rose
Magistrate Judge Sharon L. Ovington**

**ENTRY AND ORDER ADOPTING THE MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATIONS (Doc. #28) IN ITS ENTIRETY;
OVERRULING MOBLEY'S OBJECTIONS TO THE REPORT AND
RECOMMENDATION (Docs. #29, 30); AND OVERRULING MOBLEY'S
MOTION FOR SUMMARY JUDGMENT (Doc. #26)**

This matter comes before the Court pursuant to Petitioner James Mobley's ("Mobley's") Objections (docs. #29, 30) to Magistrate Judge Sharon L. Ovington's Report and Recommendations (doc. #28). The Report and Recommendations was issued on August 3, 2009. On August 11, 2009, and August 12, 2009, Mobley filed objections and the Warden did not file a response to either.

The Report and Recommendations recommends that a Motion for Summary Judgment (doc. #26) filed by Mobley be overruled because Mobley has not yet established that he is entitled to a Writ of Habeas Corpus as a matter of law and because the Return of Writ raises several contentions sufficient to create a presently ongoing dispute between the Parties regarding whether Mobley is entitled to a Writ of Habeas Corpus.

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the District Judge has made a de novo review of the record in this case and particularly of the

matters raised in both of Mobley's Objections. Upon said review, the Court finds that Mobley's Objections to the Magistrate Judge's Report and Recommendations are not well taken and they are OVERRULED.

The Report and Recommendations (doc. #28) is ADOPTED IN ITS ENTIRETY. Mobley's Motion for Summary Judgment (doc. #26) is OVERRULED. Further, the Clerk of Courts is hereby ordered to provide a copy of this Entry and Order to Mobley at his last known address.

DONE and **ORDERED** in Dayton, Ohio, this Fourth day of September, 2009.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
James Mobley